

11-42-608 Reducing assessments after issuance of refunding assessment bonds.

- (1) Each local entity that issues refunding assessment bonds shall adopt a resolution or ordinance amending the assessment resolution or assessment ordinance previously adopted.
- (2) Each amending resolution or ordinance under Subsection (1) shall:
 - (a) reduce, as determined by the local entity's governing body:
 - (i) the assessments levied under the previous resolution or ordinance;
 - (ii) the interest payable on the assessments levied under the previous resolution or ordinance;
 - or
 - (iii) both the assessments levied under the previous resolution or ordinance and the interest payable on those assessments;
 - (b) allocate the reductions under Subsection (2)(a) so that the then unpaid assessments levied against benefitted property within the assessment area and the unpaid interest on those assessments receive a proportionate share of the reductions;
 - (c)
 - (i) state the amounts of the reduced payment obligation for each property assessed in the prior resolution or ordinance; or
 - (ii) incorporate by reference a revised assessment list approved by the governing body containing the reduced payment obligations; and
 - (d) state the effective date of any reduction in the assessment levied in the prior resolution or ordinance.
- (3) A resolution or ordinance under Subsection (2) is not required to describe each block, lot, part of block or lot, tract, or parcel of property assessed.
- (4) Each reduction under Subsection (2)(a) shall be the amount by which the principal or interest or both payable on the refunding assessment bonds, after accounting for incidental refunding costs associated with the refunding assessment bonds, is less than the amount of principal or interest or both payable on the prior bonds.
- (5) A reduction under Subsection (2)(a) does not apply to an assessment or interest paid before the reduction.
- (6) A resolution or ordinance under Subsection (2) may not become effective before the date when all principal, interest, any redemption premium on the prior bonds, and any advances made under Subsection 11-42-607(5)(a) are fully paid or legally considered to be paid.
- (7)
 - (a) At least 21 days before the first payment of a reduced assessment becomes due, each local entity shall provide notice of the reduced payment obligations resulting from adoption of a resolution or ordinance under Subsection (2) by mailing, postage prepaid, a notice to each owner of benefitted property within the assessment area at the owner's mailing address.
 - (b) Each notice under Subsection (7)(a) shall:
 - (i) identify the property subject to the assessment; and
 - (ii) state the amount of the reduced payment obligations that will be payable after the applicable date stated in the resolution or ordinance under Subsection (1).
 - (c) A notice under Subsection (7)(a) may:
 - (i) contain other information that the governing body considers appropriate; and
 - (ii) be included with any other notice regarding the payment of an assessment and interest that the local entity sends to property owners in the assessment area within the time and addressed as required under Subsection (7)(a).
 - (d) The validity of a resolution or ordinance under Subsection (1) is not affected by:
 - (i) a local entity's failure to provide notice as required under this Subsection (7); or
 - (ii) a defect in the content of the notice or the manner or time in which the notice was provided.

- (e) Whether or not notice under this Subsection (7) is properly given, no other notice is required to be given to owners of property within an assessment area in connection with the issuance of refunding assessment bonds.
- (8) Except for the amount of reduction to a prior assessment or interest on a prior assessment, neither the issuance of refunding assessment bonds nor the adoption of a resolution or ordinance under Subsection (1) affects:
 - (a) the validity or continued enforceability of a prior assessment or interest on the assessment; or
 - (b) the validity, enforceability, or priority of an assessment lien.
- (9) Each reduction of a prior assessment and the interest on the assessment shall continue to exist in favor of the refunding assessment bonds.
- (10) Even after payment in full of the prior bonds that are refunded by refunding assessment bonds, an assessment lien continues to exist to secure payment of the reduced payment obligations, the penalties and costs of collection of those obligations, and the refunding assessment bonds in the same manner, to the same extent, and with the same priority as the assessment lien.
- (11) A lien securing a reduced payment obligation from which refunding assessment bonds are payable and by which the bonds are secured is subordinate to an assessment lien securing the original or prior assessment and prior bonds until the prior bonds are paid in full or legally considered to be paid in full.
- (12) Unless prior bonds are paid in full simultaneously with the issuance of refunding assessment bonds, the local entity shall:
 - (a) irrevocably set aside the proceeds of the refunding assessment bonds in an escrow or other separate account; and
 - (b) pledge that account as security for the payment of the prior bonds, refunding assessment bonds, or both.
- (13) This part applies to all refunding assessment bonds:
 - (a) whether already issued or yet to be issued; and
 - (b) even though the prior bonds they refunded were issued under prior law, whether or not that law is currently in effect.

Enacted by Chapter 329, 2007 General Session